




MEMORANDUM

TO: Members, Senate Local Government and Elections Committee

FROM: Tom Frazier, Legislative Liaison, Michigan Townships Association 

DATE: February 16, 2011

RE: MTA Recall Policy/Wisconsin Model for Recall Process

A. MTA RECALL POLICY

The holding of a recall election is not a judicial or governmental determination that the official or officials who are the target of the recall engaged in any illegal conduct. Recall elections are a political, rather than a judicial, process. While MTA's preference would be to require that recall petition language be truthful, and that recalls be limited to malfeasance, misfeasance and nonfeasance, questions of constitutionality are substantial barriers to legislative adoption. However, legislation should be enacted to amend the recall process to make it fairer to the individual or individuals being recalled. The recall law should be amended to:

- extend the length of time that an elected official cannot be recalled from the first and last six months of their term to the first and last 12 months of their term for those officials whose term of office is greater than two years;
- require that recall petitions must be filed with the filing officer within 60 days of the filing of a recall committee; and
- reform Michigan's recall process to provide that candidates, including the incumbent, be eligible to run in the recall election.

B. BACKGROUND ON THE "WISCONSIN MODEL":

The following information highlights some of the key aspects of the recall process in Wisconsin.

Definitions:

Recall primary: primary election

Recall election: general election

Recall Election Process:

- 1). Provides an opportunity for the voters to require an elected official to run for office again before the expiration of his or her term.

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- 2). The official against whom the recall petition is filed shall be a candidate at the recall election without nomination unless the official resigns within 10 days.
- 3). Other candidates for the office may be nominated under the usual procedure of nomination (i.e. circulate and file nomination papers). Candidates must also file a campaign registration statement.
- 4). For any partisan office, a recall primary shall be held for each political party where more than one candidate competes for the party's nomination in the recall election.
- 5). The person receiving the highest number of votes in the recall primary for each political party shall be the party's candidate in the recall election. Independent candidates shall be shown on the ballot for the recall election only.
- 6). If there are no candidates from the opposite party of the elected official and only a recall primary is held, if any person receives a majority of the total number of votes cast in the recall primary, a recall election shall not be held. (This is not exactly how the Wisconsin model works but likely could be applied if the model were adopted in Michigan).
- 7). Write-in votes are permitted only at a recall primary or at a recall election in which no primary is held.

Other highlights:

Right to Recall; Petition Signatures & Requirements:

- 1). A petition for recall shall be signed by electors equal to at least 25% of the vote cast for the office of governor (same as Michigan).
- 2). A petition requesting the recall of each elected officer shall be prepared and filed separately.
- 3). A petition for recall may not be offered for filing unless the petitioner first files a registration statement with the filing officer. Petitioner must file a campaign registration statement.
- 4). No petitioner may circulate a petition for the recall of an officer prior to completing registration.
- 5). Circulation of the recall petition must be completed within 60 days after registration. The completed petition must be returned to the filing officer no later than 5:00 p.m. on the 60th day from the date of registration. (Michigan currently allows 90 days).
- 6). An elected officer cannot be recalled until he/she has served at least one year of their current term of office.

Challenge Process:

- 1). Generally, the filing officer has 31 days once the petition is filed to determine the sufficiency of the petition. Filing officer has to wait at least 10 days to give office holder time to file a challenge. Timeframe could be extended by challenges or court action.
- 2). Within 10 days after a recall petition is offered for filing, the officeholder can challenge its sufficiency. The challenge must be in written form and must specify any alleged insufficiency in the petition.
- 3). Grounds for challenge include:
 - a. an elector has signed the petition more than once
 - b. a person signed the name of another elector
 - c. an individual is ineligible to sign the petition because he or she is not a qualified elector of the district or jurisdiction
 - d. a challenger established that the purpose of the petition was misrepresented by the circulator and the signer was not aware of the purposes of the petition
 - e. a signature was obtained before the first day for circulation or after the last day for circulation
- 4). Within five days after a challenge is made, the petitioner may file with the filing officer, a written rebuttal to the challenge.
- 5). Within two days after the filing of a rebuttal, the officeholder may file a reply to any new matter raised in the rebuttal.
- 6). When a challenge is made, the filing officer has 14 days to make a determination of sufficiency/insufficiency after the expiration of time allowed for challenges, rebuttals, and replies.

Voting Method; Election Results:

- 1). The recall primary or election of more than one official may be held on the same day.
- 2). If more than one official of the same party designation is the subject of a recall election, there shall be a separate election contest for the position held by each individual.
- 3). Candidates shall designate which position they are seeking on their nomination papers along with which officeholder they are opposing.
- 4). The official against whom a recall petition is filed shall continue to perform the duties of his or her office until a certificate of election is issued to his or her successor.
- 5). After one recall petition and recall election, no further recall petition may be filed against the same official during their current term of office.

